

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
(BOSTON, MA)

FILED
IN CLERK'S OFFICE

2004 JUL -1 A 11:17

U.S. DISTRICT COURT
DISTRICT OF MASS.

ADE GEORGE OYEGBOLA,

Petitioner

vs.

C.A.NO. 04-10318-RGS

TOM RIDGE, Secretary, DHS
JOHN ASHCROFT, Attorney General, USDOJ
EDUARDO AQUIRRE JR., Director, USCIS
DENNIS RIORDAN, District Director-Boston, USCIS
Respondents

USCIS # A028-408-457

**PETITIONER'S MOTION TO STRIKE
"RESPONDENTS' OPPOSITION TO PETITIONER'S RULE 55 REQUEST"
FROM THE RECORDS**

Now Comes, Petitioner, Ade George Oyegbola, pro se,
and respectfully moves the Court to strike Respondents'
motion in "Opposition to Petitioner's Rule 55 Request" for
failure to comply with Local Rule 7.1(b)(2).

Respondents' claim in their motion that "Under the
Federal Rules of Civil Procedure, the United States has
sixty (60) days to respond to said Amended Complaint."

Respondents failed to cite which specific Rule of the
Fed.R.Civ.P. provide for sixty (60) days from the date of
filing an amendment to a complaint, in regards to United
States, to respond to the amended complaint.

Respondents' motion should be stricken from the records for not complying with Local Rule 7.1(b)(2) which states that: "A party opposing a motion, shall . . . include[e] citation of supporting authorities why the motion should not be granted."

Further, Respondents' motion should be stricken from the records, because their claim of sixty (60) days from the date the amendment was filed is without merit.

Fed.R.Civ.P. Rule 15 is very clear:

(a) AMENDMENTS. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

There is no separate provision in Fed.R.Civ.P. giving the United States sixty (60) days from the date the amendment was filed to answer or otherwise defend the amended petition.

The Respondents' asked for and received permission of the Court to file an answer or otherwise defend the petition by June 11, 2004. The Respondents' have failed to comply and Petitioner is entitled to entry of default.

Wherefore, Petitioner prays that Respondents' motion be stricken from the record and entry of default entered in this case.

RESPECTFULLY SUBMITTED,



Ade George Oyegbola
Petitioner, Pro Se
46 Birchwood Road U428
Randolph, MA 02368
Phone: (781) 963 0304
Email: Oyegbola@lancorltd.com

DATED: JULY 01, 2004

CERTIFICATE OF SERVICE

I, Ade George Oyegbola, certify that on July 01, 2004, I caused a copy of the foregoing Motion to be served by "Hand Delivery" to Michael Sady, AUSA, at U.S. Attorney's Office John Joseph Moakley U.S. Courthouse, Suite 9200 Boston, MA 02210



Ade George Oyegbola
Petitioner, Pro Se